

PURCHASE OF LAND AND CONGESTED DISTRICTS
(IRELAND) BILL, 1891
(RE-ORGANISATION OF LAND COMMISSION STAFF).

RETURN to an Order of the Honourable the House of Commons,
dated 21 July 1891 ;—/567,

COPIES "of the Reports made by the LAND COMMISSIONERS, for the Information of the House of Lords, respecting the proposed Exclusion of the LAND COMMISSIONERS from being joined with the LORD LIEUTENANT and the TREASURY in determining the permanent Organisation of the LAND COMMISSION STAFF."

(*Mr. Arthur Balfour.*)

*Ordered, by The House of Commons, to be Printed,
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MAJORITY REPORT, being that of the Commissioners appointed under the Land Law (Ireland) Act, 1881.

Dear Sir,

Dublin, 7 July 1891.

IN reply to your letter of the 4th instant, I am directed by the Commissioners appointed under the Act of 1881 to say that, although they will be quite willing to submit to the Lord Lieutenant every information as to the qualifications and services of any of the Assistant Commissioners or gentlemen in their employment, they would prefer to leave the selection that has now to be made of the permanent staff in the hands of His Excellency and Her Majesty's Treasury.

Yours, &c.

(signed) *J. H. Franks.*

Lawrence C. Dowdall, Esq.,
Irish Office, London, S.W.

REASONS why the five Land Commissioners should not be joined in determining, with the Lord Lieutenant and the Treasury, what Persons now employed should form the permanent Staff.

No precedent whatever can be referred to which would apply to the present position of the Land Commission as regards the relations of the Commissioners of 1881, and of the additional Commissioners of 1885, to the officers at present constituting the Staff of the Land Commission.

The position is in no way analogous to the power having been in other cases conferred upon a Court, or upon a public Department, of joining in the selection of officials from one common Staff of that Court or Department for future service on a re-organisation.

As constituted by the Act of 1881, the Land Commission was a concrete body with one staff of officers under one control, available either for ascertaining judicial rents, or for administering the purchase provisions of that Act, but owing to the probably unforeseen consequences resulting, from the 17th section of the Act of 1885, the additional Commissioners, acting in the name of the Land Commission, while using a portion of the original Land Commission Staff for their purposes, have exercised a completely independent power in the selection of their examiners, chief clerk, and other officials.

Thus there are now two authorities, both called "The Land Commission," each working partly with a common staff, but principally with distinct and separate officers, in whose original nominations and appointments in one case the Commissioners of 1881, and in the other the additional Commissioners of 1885, had no voice.

The policy of the Bill is to bring about an amalgamation of these Staffs, with a view to efficiency, economy, and proper control.

That what has been stated may be understood, the position of the Commissioners of 1881, and of the additional Commissioners of 1885, with regard to each class of officers who will be affected by the Bill, must be stated in detail.

1st. Assistant Commissioners.

The Land Commission should not join in the selection of these gentlemen who were selected originally by "the Lord Lieutenant" from time to time. The additional Commissioners of 1885 have never had anything to do with the delegation of duties to the Assistant Commissioners; they had no control over them, and therefore have no experience of their capabilities to enable them to exercise any discretion in selection.

2nd. Inspectors under the Purchase Acts.

The Commissioners of 1881 have had nothing to do in selecting these gentlemen. It is believed they hold no regular appointments, being only employed by the job and paid by the day. Therefore the Commissioners of 1881 have no official knowledge to guide them in selection, nor are there any records to show if they are qualified, by their knowledge of mapping, &c., to perform the duties of Assistant Commissioners, which will be common to all the gentlemen now selected to act as Land Valuers.

Staff of Office.

The Bill contemplates that in future all the officers of the Land Commission shall be an amalgamated body under the control of all the Land Commissioners as one body. At present the staff consists of three separate classes:—

(a.) The greater majority were appointed by the Commissioners of 1881, and are their officers, and have not been in any way employed or under the control of the additional Commissioners of 1885. On the other hand,—

(b.) The examiners, the chief clerk, and the officers who have been appointed under the 20th Section of the Act of 1885, have been selected without any reference to the Commissioners of 1881, or even to the judicial Commissioner.

(c.) There are only a few officers originally appointed by the Commissioners of 1881, who now act as common officers of both the Commissioners of 1881 and the additional Commissioners of 1885.

On a reconstruction with the object of amalgamation, and to place all the staff under one joint control, it is obvious that neither the Commissioners of 1881, nor those of 1885, should be given the patronage of nominating from their respective staffs officers who are henceforth to be the common officers of one department.

To allow such a course to be followed would not conduce to proper discipline, as no officer in the department should be allowed to suppose that he was the nominee of any particular Commissioner or class of Commissioners.

On the other hand,—

The Commissioners of 1881 are not prepared to decide upon the respective claims of the officers appointed solely by the Commissioners of 1885.

From a similar point of view, the Commissioners of 1881 do not consider that the Commissioners of 1885 should exercise any voice in the selection of the officers with whom they have had nothing to do.

It is also submitted that if appointments are made upon the recommendation of the Commissioners of 1881, and the additional Commissioners of 1885 as distinct bodies, it will place great difficulties in the way of hereafter selecting each man for the work for which he is most suited, and for which he may not have been originally selected; this difficulty disappears if all appointments are made by the Lord Lieutenant to the Land Commission as one body.

All the officers mentioned (with the sole exception of the Inspectors), having been appointed, subject to the approval of the Lord Lieutenant, and with the sanction of the Treasury, the Commissioners of 1881 submit that the Lord Lieutenant who has the information submitted to him when the several officials enumerated were appointed, and the Treasury, are under the circumstances the proper authorities to determine any question of selection from the different classes mentioned that may arise.

By Order,

J. H. Franks, Secretary Land Commission.

9 July 1891.

REPORT of Mr. Commissioner Lynch.

7 July 1891.

HAVING been requested by the Chief Secretary to state, for the information of the House of Lords, my opinion upon the amendment proposed by Lord Londonderry, to omit the words "The Land Commission," in line 34, Clause 23, Sub-clause 7, of the Land Purchase Bill, I beg leave to submit the following observations for the information of their Lordships.

The clause, as passed in the House of Commons, provided that "such of the persons employed by the Land Commission, including Assistant Commissioners and Inspectors appointed under the Purchase of Land (Ireland) Act, 1885, as the Lord Lieutenant, the Land Commission, and the Treasury determine to be necessary and best qualified for the permanent organisation of the staff of the Land Commission, shall * * * be permanent civil servants of the Crown."

All the persons now employed in the various Departments of the Land Commission (with the exception of the Assistant Commissioners appointed by the Lord Lieutenant under the 43rd section of the Act of 1881, for the fixing of fair rents), were appointed, and are removable by the Land Commission, with the consent of the Lord Lieutenant. Under the Land Department Bill (Clause 13, Sub-clause 3), it was provided that the Land Department were, with the Lord Lieutenant and the Treasury, to frame a scheme determining the permanent organisation of the Department; a similar provision is to be found in Clause 65, Sub-clause 3, of the Purchase of Land and Congested Districts Bill, which was read a second time in March 1890. Under the Supreme Court of Judicature (Ireland) Act, 1877, the power of determining the permanent organisation of the official staff of the Supreme Court, was vested in the Lord Chancellor and the Presidents of the Divisions, with the concurrence of the Treasury; and by the 11th Section of the Landed Estates Court Act, it was provided that such of the officers and clerks as were then employed in the Court for the Sale of Incumbered Estates, as the Landed Estates Court Judges, with the approbation of the Lord Chancellor, should select as best qualified, should be transferred to the Landed Estates Court. It appears to me, therefore, that the amendment proposed by Lord Londonderry is wholly without precedent. The task of selection is always an invidious one, but, in this instance, it is shared by the Lord Lieutenant and the Treasury, and the duty is one which, in my opinion, the Commissioners who appointed the existing staff, and who in the future will be responsible for the efficient administration of the Land Act of 1881, and the Land Purchase Acts, cannot evade.

While offering no opinion as to the motive of this amendment, I feel sure that Lord Londonderry intended no "slight" upon the Land Commission, but it seems strange that those in whom the power of appointment and removal is vested should be deprived of any voice in the proposed reorganisation. It appears to me that the Commissioners are the only persons who have any personal knowledge, or can speak with authority, of the characters or qualifications of the members of their staff, or of the nature or extent of the duties they have hitherto been discharging, or which should be assigned to them in the future. The Bill contemplates a consolidation of the Land Purchase and Fair Rent Departments of the Land Commission. Speaking for myself as the Senior Commissioner

who,

Act of 1881, s. 45.
Act of 1885, s. 20.

40 & 41 Vict. c.
57, s. 78.

22 & 23 Vict.
c. 72.

who, with Mr. McCarthy, has had longest experience in the Commission, and has been in daily communication with every member of the Purchase Staff, knowing their efficiency attained by long and most careful training, and the peculiar and technical character of the duties they have to perform, I should regard with apprehension a scheme of reorganization which might deprive the Department of the services of such of the existing staff as I know to be best qualified for the discharge of duties in relation to Land Purchase, or might result in the transfer to Land Purchase work of persons whose previous training and occupations would render them unsuited for such special duties. I apprehend that as the result of the adoption of this amendment, the very large temporary staff of the Land Commission, which must now, as to permanence of tenure, be considerably reduced, may be led to believe that as the Land Commission is not represented on the Board of Selection, they must rely rather on personal and political influences than upon their merits or qualifications, and that thus the difficulty of the task of selection by the Lord Lieutenant may be enhanced.

In conclusion, I have to state that in my opinion efficiency and economy will be best secured, and the claims of deserving officials best safeguarded, by the opinions of the individual members of the Land Commission being represented on the Board of Selection by their President the Judicial Commissioner.

S. J. Lynch.

REPORT of Mr. Commissioner MacCarthy.

As one of the Land Purchase Commissioners, I object to Lord Londonderry's proposal that the Land Commission should be excluded from any voice in the selection of its permanent officers.

The Legislature appears to be disposed to confide, for the present at least, to my colleague and me the administration of a vast sum of public money, and the responsibility of carrying into effect the principal provisions of a measure of necessary complexity, and of far-reaching importance. I submit that for the due discharge of this great trust, it is desirable that we should have a potential voice in the selection of our permanent staff. To impose on us such duties, and to give to others the selection of those who are to assist us in discharging them, would appear to be a course contrary to precedent and fraught with inconvenience.

The success of the Ashbourne Acts is the basis of the legislation now proposed. This success is largely due to the officers whom, pursuant to the 20th section of the Purchase of Land Act, 1885, we have, with the approval of the Lord Lieutenant, selected for their present duties. These duties have been performed with great ability, with unflagging industry, and with absolute impartiality. Such officers may fairly look to their chiefs to protect them against the risk of being neglected or set aside in the department to the success of which they have so largely contributed.

Besides the officers specially devoted to Land Purchase administration there are several others who have been appointed from time to time since 1881, in pursuance of the 45th section of the Act of that year. These officers have duties common to both branches of the Commission. It seems to me reasonable that the Commission as a whole should have a voice in the selection for permanent appointment of those who have so well deserved it by their abilities, their experience, and their eminent public services.

On the whole the proposed exclusion of the Land Commission from any legal influence in the re-organisation of its staff appears to me unreasonable in itself, contrary to legislative precedent, injurious to departmental discipline, dangerous to the public purse, prejudicial to the success of the measure under consideration, and likely to lead to serious miscarriage of justice.

John George MacCarthy.

Irish Land Commission,
Dublin, 7 July 1891.

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(*Mr. Arthur Balfour.*)

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